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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	NO. CR 21-00193-HSG (LB)
Plaintiff,)	
v.)	UNITED STATES' OPPOSITION TO
)	DEFENDANT'S MOTION TO TEMPORARILY
LUIS AVALOS,)	MODIFY PRETRIAL RELEASE CONDITIONS TO
)	TRAVEL
Defendant.)	
)	Hearing Date: January 13, 2022
)	Hon. Laurel Beeler
)	
)	

The United States respectfully submits this memorandum in opposition to defendant's motion to temporarily modify pre-trial release conditions in order to travel.

BACKGROUND

On August 18, 2021, the defendant, Luis Avalos, plead guilty to one count of Felon in Possession Firearm and Ammunition, pursuant to 18 U.S.C. § 922(g)(1). The defendant awaits sentencing before District Judge Hayward S. Gilliam, Jr.

ARGUMENT

1 Considering the defendant has already pled guilty in the pending matter and the COVID
2 conditions, the government opposes the defendant's request as travel is inappropriate at this time.

3 The defendant has previously pled guilty to one count of Felon in Possession of a Firearm and
4 Ammunition. Pursuant to 18 U.S.C. § 3143(a)(2), the defendant should arguably be detained. Under 18
5 U.S.C. § 3143(a)(2):

6 the judicial officer shall order that a person who has been found guilty
7 of an offense and who is awaiting imposition or execution of sentence...
8 be detained, unless the judicial officer finds by clear and convincing
9 evidence that the person is not likely to flee or pose a danger to the safety
10 of any other person or the community...

11 Considering the defendant's previous guilty plea, granting travel speaks directly to flight risk and
12 should not be permitted while the defendant has a felony matter pending sentencing.

13 Travelling during the pendency of a federal indictment while awaiting sentencing directly speaks
14 to flight risk; however, travelling during a global pandemic poses a danger to the community.
15 According to the Centers for Disease Control and Prevention (CDC), approximately 500,000 people
16 have lost their lives due to COVID in the United States.¹ COVID is highly contagious and spreads from
17 person to person through respiratory droplets that can travel through the air. As a highly contagious
18 virus, COVID is difficult to contain. While wearing masks, socially-distancing, and getting vaccinated
19 reduce the spread of the virus, these precautions do not stop the spread.² According to the CDC, the best
20 way to stop the spread is to avoid crowds altogether.³ According to the CDC, it is possible that
21 vaccinated individuals can continue spreading COVID.⁴ So while the defendant and whoever he
22 celebrates his birthday with are potentially safe from each other if vaccinated; the others around them—
23 those on flights, service industry workers, etc.—are not necessarily so fortunate. The dangers of
24 COVID are only heightened by the new variant.

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26 ¹ <https://www.cdc.gov/nchs/covid19/mortality-overview.htm>

27 ² <https://www.cdc.gov/vaccines/covid-19/hcp/faq.html>

28 ³ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html>

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html>

1 Considering the posture of the sentencing and the pandemic, this court should deny the
2 defendant's motion to temporarily modify pre-trial release conditions in order to travel as it poses a
3 flight risk and a danger to the community.

4 **CONCLUSION**

5 For the foregoing reasons, the Court should deny defendant's motion.

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7 DATED: January 12, 2022

Respectfully submitted,

8 STEPHANIE M. HINDS
9 United States Attorney

10 By:

11 /s/
12 ALEXIS JAMES
13 Assistant United States Attorney
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